

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2016-010115

11/02/2018

HON. PAMELA GATES

CLERK OF THE COURT
K. Ballard
Deputy

ROBERT J BARON

ROBERT J BARON
18631 N 19TH AVE
158-288
PHOENIX AZ 85027

v.

HONORHEALTH, et al.

ANDREW S ASHWORTH

JURY TRIAL SET

Courtroom: ECB - 912

9:28 a.m. This is the time set for a trial-setting conference. Plaintiff Robert J. Baron is present on his own behalf. Defendant Scottsdale Healthcare Hospitals (dba HonorHealth) (the only remaining Defendant in the case) is represented by Counsel Andrew S. Ashworth. All appearances are telephonic.

A record of the proceedings is made digitally in lieu of a court reporter.

The court has received the parties' October 29, 2018 Joint Status Report.

With regard to Plaintiff's September 27, 2018 ARCP Rule 16.1(h) Motion for Sanctions on Defendant and Defense Counsel, the court will review the briefs and determine if oral argument is necessary prior to ruling as this motion is fully briefed.

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With regard to Defendant's October 19, 2018 Motion for Summary Judgment and Plaintiff's October 19, 2018 ARCP Rule 11(c)(3) Motion for Sanctions on Defendant and Defense Counsel, the court will review those motions after the briefing is complete.

Plaintiff is advised that if he intends to seek an extension of the response deadline with regard to Defendant's pending summary judgment motion, he will need to ensure any request to extend time is timely filed.

Discussion is held regarding the length of time Plaintiff is requesting before trial is set in this matter. In that regard, Plaintiff indicates that he is still attempting to retain counsel.

Discussion is briefly held regarding the number of witnesses each side intends to call at trial.

IT IS ORDERED setting this matter for a **7-day** jury trial beginning on **March 25, 2019 at 9:30 a.m.** (concluding by 4:30 p.m. on April 3, 2019) in this division.

**The Honorable Pamela Gates
Maricopa County Superior Court
East Court Building
101 W. Jefferson
9th Floor, Courtroom 912
Phoenix, AZ 85003
Phone: 602-506-6391
Fax: 602-372-8790**

Trial hours and days are normally 9:30 a.m. to 4:30 p.m. (with a lunch recess from noon to 1:30 p.m. and two 15-minute recesses, daily), Monday through Thursday.

IT IS FURTHER ORDERED setting a final trial management conference for **January 25, 2019 at 9:30 a.m.** (time allotted: **one hour**) in this division. All counsel (and any self-represented party) shall **appear in person** unless otherwise ordered.

The court hereby approves Plaintiff's request to appear telephonically at the final trial management conference, **if he is represented by counsel** at that time. His counsel, however, will be required to appear in person.

NOTE: All court proceedings are recorded digitally and not by a court reporter. Pursuant to Local Rule 2.22, if a party desires a court reporter for any proceeding in which a court reporter is not mandated by Arizona Supreme Court Rule 30, the party must submit a written request to the

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assigned judicial officer at least ten (10) judicial days in advance of the hearing, and must pay the authorized fee to the Clerk of the Court at least two (2) judicial days before the proceeding. The fee is \$140 for a half-day and \$280 for a full day.

9:38 a.m. Matter concludes.

Based on the trial setting, the court sets the following deadlines and makes the following orders. The dates set forth in this order are firm dates and will not be extended or modified by this court absent good cause. Lack of preparation will not ordinarily be considered good cause.

DUTIES BEFORE THE FINAL TRIAL MANAGEMENT CONFERENCE

MOTIONS IN LIMINE. All motions in limine shall be filed no later than **5:00 p.m. on January 4, 2019**. Written responses to motions in limine may be filed no later than 10 calendar days after service of the motion. No replies shall be filed. The court may hear argument at the final trial management conference or may rule without oral argument. The parties must comply with Ariz. R. Civ. P. Rule 7.2(a) before filing any motion in limine.

IT IS FURTHER ORDERED that each side will be limited to filing no more than 5 motions in limine. However, either side may file a brief of unlimited length addressing evidentiary issues anticipated to arise at trial.

JOINT PRETRIAL STATEMENT. The parties shall file with the court no later than **5:00 p.m. on January 18, 2019**, a **Joint Pretrial Statement**, signed by all counsel (and any self-represented party) and containing the following. **This order modifies the requirements of Ariz. R. Civ. P. 16(f).**

1. **List of Claims.** The Joint Pretrial Statement must contain a list of all claims or causes of action on which a verdict is sought by any party. Such list shall specify (1) the cause of action (e.g., breach of contract, negligence, etc.), (2) each party asserting that cause of action, and (3) each party against whom that cause of action is asserted.

2. **No List of Issues.** The requirements of Ariz. R. Civ. P. 16(f)(2)(A), (B) and (C) are waived. The parties need not prepare a list of stipulations, agreed contested issues or other issues considered material. Disputes over what issues are properly in the case will be decided under Rule 26.1. The parties may, if they wish, submit one or more separate stipulations regarding facts, evidence or other matters.

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3. **Summary of the Case for Jury Selection.** The Joint Pretrial Statement must include an agreed-upon brief (generally less than 200 words) summary of the case for jury selection purposes. If the parties cannot agree, they must submit separate proposed summaries.

4. **Final Trial Witnesses.** The Joint Pretrial Statement must include an exhibit entitled Final Trial Witness List, which must list each witness a party expects to call at trial (in person or by deposition) and the day on which they expect to call that witness. If the court finds that a party unreasonably included witnesses not likely to be called at trial, it may consider appropriate sanctions.

5. **Trial Exhibits.** As required by Rule 16(f)(E), all trial exhibits must be listed in the Joint Pretrial Statement along with objections. The court typically resolves objections to exhibits at trial, but objections must be listed in the Joint Pretrial Statement to be preserved. If the court finds that a party unreasonably included exhibits not likely to be used at trial, it may consider appropriate sanctions.

6. **Deposition Designations.** Deposition designations and objections should not be included in the Joint Pretrial Statement, but must be filed with the court three judicial days before the start of trial. The court will resolve deposition designations as follows. By 3:00 p.m. the day before a party plans to read deposition testimony, that party must provide the court a hard copy of the deposition transcript with (1) the portions to be read highlighted in one color, (2) any counter-designations highlighted in a different color, and (3) any objections written in the margin. The court will rule on any objections by the next day. If the party plans to play a video deposition, the transcript must be provided by 3:00 p.m. two days before the deposition will be played.

7. **Other Matters.** The Joint Pretrial Statement must include the matters in Ariz. R. Civ. P. 16(f)(2)(H-M).

JURY INSTRUCTIONS; VOIR DIRE. The parties shall meet and agree on as many proposed jury instructions as possible. The parties shall file with the court, with their Joint Pretrial Statement, copies of:

1. Proposed voir dire questions.
2. Agreed-upon preliminary and final jury instructions and proposed forms of verdicts.
3. Separate sets of requested instructions that have not been agreed upon. Recommended Arizona Jury Instructions ("RAJI") may be referred to name without reprinting, but if the RAJI contains options for the court the party should indicate which options it is requesting.

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Jury instructions not requested by the final trial management conference will be deemed waived unless good cause exists for the untimely request.

SETTLEMENT. The parties are reminded to promptly notify the court of any settlement pursuant to Ariz. R. Civ. P. 5.3(d). One day's jury fees will be assessed unless the court is notified of settlement before 2:00 p.m. on the judicial day before the trial.

TRIAL MANAGEMENT CONFERENCE

At the final trial management conference, the parties shall be prepared to discuss:

1. The claims and parties as to which a verdict is sought.
2. The time designated for trial and, if necessary, time limits.
3. Any scheduling or equipment issues.
4. Voir dire.
5. Any special issues regarding exhibits or deposition designations.
6. Preliminary jury instructions.
7. The case summary for jury selection purposes.
8. Motions in limine.
9. The potential for settlement before trial.

TRIAL EXHIBITS

Counsel (and any self-represented party) **shall deliver all trial exhibits to the courtroom clerk (602-506-3448) no later than 3:00 p.m. on March 4, 2019.**

The parties shall present all exhibits to be used at trial, along with a written list of brief exhibit descriptions, to the clerk on the date referenced above unless other arrangements have been made with the clerk before that date. All exhibits will be clearly labeled by the parties to correspond with the list provided. The parties should not reserve exhibit numbers for exhibits to be provided at a later date, "all defendant's exhibits," "all plaintiff's exhibits," "miscellaneous demonstrative exhibits," etc.

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The exhibits will be marked numerically and consecutively, plaintiff's first and defendant's second. Before presenting the exhibits to the clerk, the parties shall meet and confer to **eliminate any duplicate exhibits**.

Do not place exhibits in a notebook when submitting them to the clerk for marking and do not provide the clerk with stacks of loose paper. Individual exhibits consisting of multiple pages shall be **bound by staples or two-prong fasteners**.

Depositions are not marked as exhibits. But for any depositions the parties intend to use during the trial, the original deposition transcript shall be provided to the courtroom clerk for filing no later than the first day of trial. The depositions will be available to the parties and the court during the trial, and will be retained by the clerk for record purposes.

In addition to providing a set of exhibits to the clerk, the parties may provide a second set of exhibits in a numbered, tabbed binder or on a bookmarked flash drive for the court's use during the trial.